

SUBCHAPTER J : LAKE PALESTINE

§284.181. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Authority - The Upper Neches River Municipal Water Authority.

Commission - The Texas Water Commission.

Lake Palestine - That lake on the Neches River which lies in Anderson, Henderson, Smith, and Cherokee Counties.

msl - The abbreviation for mean sea level.

Organized disposal system - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a valid permit issued by the commission.

Private sewage facility - Septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

Sewage - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

Standards - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

Subdivision -

(A) A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(B) any four or more contiguous lots or tracts; each of which is less than two acres in size.

Take line - The limit of land acquisition for Lake Palestine.

§284.182. Restricted Zone.

(a) The commission designates the Lake Palestine Restricted Zone as the area surrounding the lake (including the lake bed) which is within 25 feet of the 355-foot msl take line measured horizontally away from the lake.

(b) The following requirements apply to the location of certain sewerage facilities in the restricted zone.

(1) No sewerage facilities that are constructed so as to allow the interchange of sewage with lake water may be located in the restricted zone.

(2) No part of any soil absorption field may be located in the restricted zone.

(c) The following types of sewerage facilities may be located in the restricted zone:

(1) organized disposal systems authorized by valid permits issued by the Texas Water Commission;

(2) facilities approved by the Upper Neches River Municipal Water Authority for the removal and disposal of waste from boats and other watercraft in accordance with Chapter 321 of this title (relating to Control of Certain Activities by Rule), concerning boat sewage disposal promulgated by the commission;

(3) holding tank systems that have been licensed or registered by the Upper Neches River Municipal Water Authority; and

(4) private sewage facilities which have been licensed or registered by the Upper Neches River Municipal Water Authority.

§284.183. Water Quality Zone.

(a) The commission designates the Lake Palestine water quality zone as the area in the lake drainage basin lying between the outer boundary of the restricted zone, designated above, and a parallel line located at a distance of 500 feet from the outer boundary of the restricted zone, measured horizontally away from the lake.

(b) No sewerage facilities of any kind may be located within the water quality zone except those of organized disposal systems and those private sewage facilities licensed or registered by the Upper Neches River Municipal Water Authority in accordance with the terms and conditions of this subchapter.

§284.184. Local Authority Designated to Perform Licensing Functions of this Subchapter.

(a) The Upper Neches River Municipal Water Authority is designated by the commission to perform all the licensing, enforcement, and related functions of this subchapter.

(1) The authority shall have the following powers:

(A) to enforce all the regulations contained in this subchapter;

(B) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter;

(C) to collect all fees set by the board necessary to recover all the costs incurred in meeting the requirements of this subchapter in accordance with §284.192 of this title (relating to Fees Schedule); and

(D) to contract with engineering firms or with other governmental units having jurisdiction in the area covered by this subchapter for performance of the investigative functions necessary to licensing.

(2) The authority shall have the responsibility to perform all the duties necessary to meet the requirements of this subchapter.

(b) Upon a showing of necessity, the commission may assume all of the powers and responsibilities delegated to the authority by this subchapter.

§284.185. Existing Private Sewage Facilities.

(a) All private sewage facilities existing within the restricted zone or the water quality zone prior to May 23, 1972, were to be registered with the authority in accordance with Texas Department of Water Resources rules (§§371.181-371.192 of this title (relating to Lake Palestine) which are replaced by this subchapter).

(b) A registration issued by the authority pursuant to Texas Department of Water Resources rules (§§371.181-371.192 of this title (relating to Lake Palestine)), which are replaced by this subchapter will continue to be valid so long as the facility is not causing pollution or injury to the public. Such registration will be transferred to a succeeding owner and will continue to be valid so long as the authority is informed of the transfer and the facility is not causing pollution or injury to public health.

(c) Any private sewage facility existing within the restricted zone or the water quality zone prior to May 23, 1972, not registered with the authority pursuant to Texas Department of Water Resources rules (§§371.181-.371.192 of this title (relating to Lake Palestine)), which are replaced by this subchapter, or any registered private sewage facility which is malfunctioning, shall be licensed pursuant to §284.186 of this title (relating to Licensing Requirements for New Private Sewage Facilities).

(d) All licenses for private sewage facilities issued by the authority will remain in effect for the term stated therein as if issued under this subchapter.

§284.186. Licensing Requirements for New Private Sewage Facilities.

(a) Private sewage facilities to be located in the water quality zone after May 23, 1972, must be licensed by the authority.

(b) Any developer or other person interested in creating a subdivision in which private sewage facilities will be utilized must fulfill the following requirements:

(1) A plat of the proposed subdivision must be filed with, approved by, and recorded by the county commissioners court having jurisdiction in the area.

(2) An application and the appropriate fee shall be filed with the authority.

(3) The lot or tract which the private sewage facilities will serve must meet requirements of the latest edition of the "Standards".

(4) The authority will perform the necessary tests and inspections and advise the applicant as to the suitability of the use of private sewage facilities.

(5) The authority shall notify the applicant of its findings. The authority may determine whether or not certain portions of the subdivision may or may not be licensed.

(6) Approval by the authority of the subdivision or a portion thereof shall not constitute a license for a specific private sewage facility but shall be a prerequisite for obtaining a license, and each private sewage facility installed within the subdivision must be licensed in accordance with the terms and regulations of this subchapter.

(7) Notice of this subchapter and its terms and conditions, as well as its applicability to the subdivision and each lot therein must be given to every buyer by the developer, his agent, or his assigns. Failure to give adequate notice will forfeit the approval granted by the authority.

(c) The following shall apply to new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence for the unexpired term of the license provided the new owner applies to the authority, and provided there is no significant change in amount or quality of waste to be placed in the private sewage facility.

(2) Application forms for licenses may be obtained from the offices of the authority. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the authority.

(3) The authority will perform such inspections and tests as may be deemed necessary as soon as practicable.

(4) Upon a finding by the authority that the continued use of the private sewage facility will not cause pollution or injury to the public health, a license effective for a term of five years will be issued. Any license issued under the above terms may be renewed for successive terms of five years if the authority determines that continued use of the private sewage facility is not in conflict with the terms and regulations of this subchapter, and that no pollution or injury to public health will result.

(5) Upon a finding by the authority that the private sewage facility will not be licensed, the applicant shall be notified in writing of that finding and of the faults which prevent licensing.

§284.187. Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.

In order to implement the stated policy of the legislature and the commission that the development and use by interested and affected parties of organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the following requirements are set out.

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system; rather, the facility shall be connected to the organized system.

(2) Whenever an organized waste collection, treatment, and disposal system is developed to within 300 feet in horizontal distance from any part of a private sewage facility, licensed or not, the facility shall be connected to the organized system whenever feasible.

§284.188. Terms and Conditions for Granting of Exceptions.

The commission intends that the regulations contained in this subchapter shall be strictly enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established.

(1) Any person desiring an exception shall file an application with the authority for its analysis of the specifics of the situations.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the authority's decision.

§284.189. Terms and Conditions for Appeal.

(a) The commission intends that any disputes concerning the application of these sections to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met.

(1) All of the appropriate steps required of the aggrieved person by the terms and conditions of the subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the commission who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

§284.190. Enforcement of this Subchapter.

(a) Criminal penalty, Texas Water Code, §26.214.

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to a civil penalty and injunction for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

§284.191. Severability Clause.

If any of the provisions of this subchapter or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

§284.192. Fee Schedule.

The authority shall establish a fee schedule for the private sewage facilities regulatory program around Lake Palestine and maintain a copy of such fee schedule at the authority's offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the authority and may, subject to applicable laws, be amended by the authority from time to time.